

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ROBERT V. TOWNES, IV,  
individually and on behalf of  
all persons similarly situated,

Plaintiff,

**VS.**

TRANSUNION, LLC and  
TRUELINK, INC.,

Defendants.

Civil Action No.

Class Action

### Demand for Jury Trial

## COMPLAINT

Plaintiff, by his attorneys, makes the following allegations based upon knowledge with respect to his own acts and based upon information and belief with respect to other matters. Certain information concerning Defendants' conduct is not publicly available. Plaintiff believes that substantial additional evidentiary support will exist for his allegations after a reasonable opportunity for discovery.

### Preliminary Statement

1. This action is brought by Plaintiff on behalf of himself and a proposed nationwide class of persons who purchased services from Defendants, which Plaintiff asserts are “credit repair organizations” that operate in violation of the consumer protection provisions of the federal Credit Repair Organizations Act (“CROA”), 15 U.S.C. § 1679 *et seq.* The proposed class consists of persons who, at any time after five years prior to the filing of this action, have purchased any “consumer” or “personal” service from a Defendant and who (a) paid in advance before such service was provided

or fully performed; (b) did not receive the disclosures described in 15 U.S.C. § 1679c; (c) did not receive a written contract with terms as described in 15 U.S.C. § 1679d; or (d) did not receive a cancellation form and other information described in 15 U.S.C. § 1679e.

### **Jurisdiction and Venue**

2. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331 in that it arises under the laws of the United States, specifically under CROA, 15 U.S.C. § 1679 *et seq.*

3. Venue is proper in this district in that Defendants are entities organized under Delaware law and in that Defendants have designated this judicial district as a proper venue for this type of action against them. *See* “Terms of Use” (attached as Exhibit A), which provides that customers “agree that any and all disputes arising under this Agreement or out of TrueLink’s provision of services to [customer], if submitted to a court of law, shall be submitted to the state and federal courts of New Castle County, Delaware, USA.”

### **Facts**

4. Plaintiff, Robert V. Townes, IV, lives in Gardendale, Alabama. In August 2004, Plaintiff visited a website maintained by Defendants and purchased services from Defendants in order to improve his credit record, credit history, and credit rating.

5. Defendant TransUnion LLC (“TransUnion”) is a limited liability company organized under the laws of the State of Delaware, is authorized to do business in Delaware, and has its principal place of business in Chicago, Illinois. TransUnion is a privately held company.

6. Defendant TrueLink, Inc. ("TrueLink") is a corporation organized under the laws of the State of Delaware, is authorized to do business in Delaware, and has its principal place of business in San Luis Obispo, California. It is wholly owned by TransUnion.

**Facts**

7. Defendants own, provide, operate, and maintain the website [www.truecredit.com](http://www.truecredit.com), through which Defendants provide credit-related services to consumers. The website states that it is "provided by TrueLink" and is "brought to you by TransUnion." Persons who visit TransUnion's website ([www.transunion.com](http://www.transunion.com)) are redirected to [www.truecredit.com](http://www.truecredit.com) upon indicating interest in obtaining consumer (or "Personal Solutions") services relating to credit records, history, or ratings.

8. Plaintiff visited [www.truecredit.com](http://www.truecredit.com) on August 23, 2004. He ordered "TrueCredit" services consisting of an "Instant 3-in-1 Credit Report" and a "custom debt analysis," including "tips for making your score higher." The services included identification of specific factors to help the consumer obtain favorable consideration by lenders in evaluating the capacity and creditworthiness of the consumer; summaries and explanations of debt and credit scores to enable the consumer to improve his or her score over time; and access to updates of the information provided for 30 days.

9. As guided by the website, Plaintiff agreed to the Terms of Use and arranged to pay \$45.85 for the services. Defendants charged Plaintiff's credit card for that amount immediately.

10. CROA defines a "credit repair organization" as follows:

The term "credit repair organization" – (A) means any person who uses any instrumentality of interstate

commerce or the mails to sell, provide or perform (or represent that such person can or will sell, provide, or perform) any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of – (i) improving any consumer’s credit record, credit history, credit rating; or (ii) providing advice or assistance to any consumer with regard to any activity or service described in clause (i)...

15 U.S.C. § 1679a.

11. Defendants are “credit repair organizations” within the meaning of CROA. The services Defendants furnish to consumers through [www.truecredit.com](http://www.truecredit.com) are provided for the express or implied purpose of improving the consumer’s credit record, credit history, or credit rating, or of providing advice or assistance to the consumer with regard to those activities or services. Defendants are not subject to any of the exclusions from the definition of “credit repair organization” listed in 15 U.S.C. § 1679a(3)(B).

12. CROA provides: “No credit repair organization may charge or receive any money or other valuable consideration for the performance of any service which the credit repair organization agreed to perform for any consumer before such service is fully performed.” (emphasis added). 15 U.S.C. § 1679b(b).

13. Defendants uniformly charge and receive payment for TrueCredit services before fully performing the services. Plaintiff’s credit card was charged for the services he ordered before the services were performed by Defendants.

14. CROA requires that, before any consumer enters into a contract with a credit repair organization, the consumer must be provided with a disclosure explaining the consumer’s rights and responsibilities with regard to the consumer’s credit report. 15 U.S.C. § 1679c. The form of the disclosure is set forth in that subsection.

15. CROA requires the execution of a written contract prior to the performance of any services. Such contracts must include: “(1) the terms and conditions of payment, including the total amount of all payments to be made by the consumer to the credit repair organization or to any other person; (2) a full and detailed description of the services to be performed by the credit repair organization for the consumer, including – (A) all guarantees of performance; and (B) an estimate of – (i) the date by which the performance of the services (to be performed by the credit repair organization or any other person) will be complete; or (ii) the length of the period necessary to perform such services; (3) the credit repair organization’s name and principal business address; and (4) a conspicuous statement in bold face type, in immediate proximity to the space reserved for the consumer’s signature on the contract, which reads as follows: ‘You may cancel this contract without penalty or obligations at any time before midnight of the 3<sup>rd</sup> business day after the date on which you signed the contract.’” 15 U.S.C. § 1679d.

16. CROA requires that each such contract provide that the consumer may cancel the contract without penalty or obligation “at any time before midnight of the 3<sup>rd</sup> business day which begins after the date on which the contract or agreement between the consumer and the credit repair organization is executed or would, but for this subsection, become enforceable against the parties”; and include a Notice of Cancellation form for such purpose. CROA also requires the credit repair organization to furnish the consumer with a copy of the completed contract and disclosure statement and with any other document signed by the consumer, at the time the contract or other document is signed. 15 U.S.C. § 1679e.

17. Defendants failed to comply with the provisions of 15 U.S.C. § 1679c, § 1679d, and § 1679e with respect to Plaintiff.

**Class Allegations**

18. CROA expressly provides for the maintenance of class actions. 15 U.S.C. § 1579g. Plaintiff brings this action individually and as a class action pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure on behalf of a proposed class ("Class") defined as follows:

All persons who, at any time after five years prior to the filing of this action, purchased any "consumer" or "personal" service from a Defendant and who (a) paid in advance before such service was provided or fully performed; (b) did not receive the disclosures described in 15 U.S.C. § 1679c; (c) did not receive a written contract with terms as described in 15 U.S.C. § 1679d; or (d) did not receive a cancellation form and other information described in 15 U.S.C. § 1679e.

Excluded from the class definition are: (a) Defendants and any of their officers, directors, and employees; (b) any person who has a pending suit against a Defendant for any claims asserted herein or who has compromised such a claim; (c) any judicial officer hearing this action and their families through the third degree of relationship.

19. The members of the Class are similarly situated to Plaintiff. Defendants believe they are not credit repair organizations subject to CROA and accordingly do business uniformly without complying with the consumer protection provisions of CROA described in this complaint.

20. The Class consists of thousands of persons.

21. Common questions of law and fact exist. They include:

- (a) Whether Defendants are "credit repair organizations" as defined in CROA.
- (b) Whether Defendants' activities are "services" as defined in CROA.

- (c) Whether Defendants charged fees or received payment for credit repair services to Class members prior to fully performing the services.
- (d) Whether Defendants provided Class members with the disclosure form described by CROA.
- (e) Whether Defendants entered into written contracts with Class members as described by CROA.
- (f) Whether Defendants provided Class members with a right to cancel and with a copy of the contract and cancellation form.
- (g) Whether CROA's statutory damages provisions apply to the claims of the Class.
- (h) Whether and to what extent the factors to be considered in awarding punitive damages, as described in 15 U.S.C. § 1679g(b), are present.
- (i) Whether Defendants were unjustly enriched by their conduct.

22. The common issues represent the most significant issues in the case; they predominate over any individual issues; and they can be resolved for all members of the Class in one action.

23. Plaintiff's claims are typical of the claims of each Class member. The factual and legal basis for the claims are similar.

24. Plaintiff will fairly and adequately represent the interests of the class, in that:

- (a) Plaintiff's interests do not conflict with those of any Class member. Plaintiff does not have any relationship with any Defendant other than as purchaser of services as described herein.
- (b) Plaintiff and his attorneys have adequate legal and financial resources to prosecute this action diligently. Plaintiff's counsel can advance the costs of this litigation.
- (c) Plaintiff's attorneys are competent and experienced in class action litigation.
- (d) A class action is the superior method for adjudicating the claims asserted herein, and a class action will provide a fair and efficient method of adjudicating this controversy. The management of this litigation as a class action will not present any undue difficulties. The claims asserted herein are "negative value" claims (it would cost more to litigate them individually than could be recovered individually), making prosecution of the claims in separate actions by individual Class members financially impracticable. Separate prosecution of the claims would also be burdensome and inefficient for counsel and the Court.

**Count One  
Violations of CROA**

- 25. Plaintiff restates and incorporates the factual allegations of each prior paragraph as if fully set forth herein.
- 26. Defendants failed to comply with CROA as described above.

27. As a result of Defendants' failures to comply, Plaintiff and Class members have suffered damage.

**Count Two  
Unjust Enrichment**

28. Plaintiff restates and incorporates the factual allegations of each prior paragraph as if fully set forth herein.

29. Defendants hold money, which in equity and good conscience and under law, belongs to Plaintiff and the Class members because it was improperly and unlawfully paid to Defendants.

30. Defendants should be required to disgorge that money and the Court should impose a constructive Trust as to that money and return it to Plaintiff and the Class members.

**Prayer for Relief**

Plaintiff seeks relief as follows:

(a) The Court should certify this action as a class action pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure as requested herein.

(b) The Court should award damages. Pursuant to 15 U.S.C. § 1679g, Plaintiff and Class members are entitled to recover as "actual damages" any amounts they paid to Defendants, and are entitled to recover as "punitive damages" the sum of "(i) the aggregate of the amount which the court may allow for each named plaintiff; and (ii) the aggregate of the amount which the court may allow for each other class member, without regard for any minimum individual recovery." The Court should award prejudgment interest.

(c) The Court should declare that Defendants' offerings to consumers are subject to CROA; should enjoin further activities by Defendants in violation of CROA; should declare Defendants' consumer contracts void under 15 U.S.C. § 1679f(c); and should order an accounting, disgorgement, and imposition of a constructive trust upon monies collected by Defendants from Plaintiff and Class members pending resolution of this action.

(d) The Court should award reasonable attorneys' fees, costs, and expenses of this action, including under 15 U.S.C. § 1679g(3).

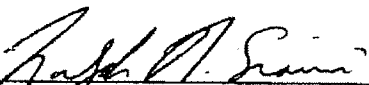
(e) The Court should order such other, further, and general relief as is appropriate.

**Request for Jury Trial**

Plaintiff requests a trial by jury on all issues properly so tried.

Dated: December 1, 2004.

**MILBERG WEISS BERSHAD  
& SCHULMAN LLP**

By:   
Seth D. Bagrodsky (DSBA #3147)  
Ralph N. Sianni (DSBA #4151)  
919 North Market Street -- Suite 411  
Wilmington, DE 19801  
(302) 984-0597  
(302) 984-0870 (Facsimile)

Melvyn I. Weiss  
Michael C. Spencer  
One Pennsylvania Plaza  
New York, NY 10119  
(212) 594-5300  
(212) 868-1229 (Facsimile)

**POPE, McGLAMRY, KILPATRICK,  
MORRISON & NORWOOD, LLP**

C. Neal Pope

Wade H. Tomlinson, III

1111 Bay Avenue, Suite 450

P.O. Box 2128 (31902-2128)

Columbus, GA 31901

(706) 324-0050

(706)-327-1536 (Facsimile)

--and--

Michael L. McGlamry

The Pinnacle, Suite 925

3455 Peachtree Road, N.E.

P.O. Box 191625 (31119-1625)

Atlanta, Georgia 30326-3243

(404) 523-7706

(404) 524-1648 (Facsimile)

*Attorneys for Plaintiffs*

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- You certify in writing that you are unemployed and intend to apply for employment during the sixty (60) day period beginning on the date on which you made such certification.
- You certify in writing that you are a recipient of public welfare assistance.
- You certify in writing that you have reason to believe that your file at such credit reporting agency contains inaccurate information due to fraud.

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